

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.17101/1999
(From the judgement and order dated 05/08/1999 in CR 713/98
of The HIGH COURT OF M.P AT JABALPUR)

MAHILA KAMLESH

Petitioner (s)

VERSUS

NAYRAYAN DASS

Respondent (s)

(With prayer for interim relief)

Date : 11/12/2000 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE U.C. BANERJEE

For Petitioner (s)

Mr. S.S. Khanduja,Adv.

For Respondent (s)

Mr. Shiv Sagar Tiwari,Adv.

UPON hearing counsel the Court made the following
O R D E R

.....L.....I.....T.....T.....T.....T.....J.
.SP2

Leave granted.
The appeal is allowed.

.SP1

(Y.P.Dhamija)

(Suneet Bala Sharma)@@

AA

COURT MASTER

COURT MASTER

Signed order is placed on the file.

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO...../2000@@
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(arising out of SLP(C) 17101/1999)

Mahila KamleshAppellant

Vs.

Narayan DasRespondent

O R D E R@@
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.....L.....I.....T.....T.....T.....T.....T.....J.
.SP2

Leave granted.

The landlady is the appellant against the revisional order of the High Court interfering with the order of eviction passed by the Controller. The High Court exercised its power of revision under section 23-E of the M.P.Accommodation of Control Act. Under the said Act, the landlady filed an application under section 23-A(b) claiming bonafide need of the premises. The tenant never filed any written statement. The Controller on consideration of materials came to the conclusion that the bonafide need is established and accordingly passed an order of eviction. The High Court in revision on re-appreciation of the evidence interferred with the said findings of the Controller. The High Court has failed to notice the provisions of section 23- D(3) whereunder statutory presumption is there about existence of bonafide need. The landlady has filed an application indicating the requirement with reference to Clauses (a) and (b) and it will be for the tenant to rebut the said presumption. Under section 23-J, the landlady being a widow

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would be a landlady under Chapter-III-A. In the aforesaid premises, we have no hesitation to come to the conclusion that the High Court exceeded its jurisdiction in interfering with the finding of bonafide requirement recorded by the Controller. We accordingly set aside the impugned order of the High Court and affirm the order of eviction passed by the Controller. This appeal is allowed.

.SP1
.....J.
(G.B.PATTANAIAK)@@
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New Delhi,J.@@
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December 11,2000 (U.C. BANERJEE)@@
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